RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)

Minutes of Meeting
May 29, 2002

The nineteenth meeting of the RSAC was convened at 9:40 a.m., in the Vista Ballroom of the Wyndham Hotel (Washington, D.C.), 1400 M Street, N.W., Washington, D.C. 20005, by the RSAC Chairperson, the Federal Railroad Administration's (FRA) Associate Administrator for Safety, George Gavalla.

As RSAC members, or their alternates, assembled, attendance was recorded by sign-in log. Sign-in logs for each daily meeting are a permanent part of the RSAC Docket. Eleven of the forty-eight voting RSAC members were absent: The American Short Line and Regional Railroad Association (ASLRRA) (2 seats), The American Train Dispatchers Department/Brotherhood of Locomotive Engineers (ATDD/BLE) (1 seat), The Association of Railway Museums (1 seat), The Brotherhood of Maintenance of Way Employes (BMWE) (1 seat), The Hotel Employees & Restaurant Employees International Union (1 seat), The International Association of Machinists and Aerospace Workers (1 seat), The International Brotherhood of Boilermakers and Blacksmiths (1 seat), The National Conference of Firemen and Oilers (1 seat), Safe Travel America (1 seat) and The Transportation Communications International Union/Brotherhood of Railway Carmen (TCIU/BRC) (1 seat). Five of seven non-voting/advisory RSAC members were absent: The Federal Transit Administration, The Labor Council for Latin American Advancement, The League of Railway Industry Women, The National Association of Railway Business Women, and Secretaria de Communicaciones y Transporte (Mexico). Total meeting attendance, including presenters and support staff, was approximately 93.

Chairperson Gavalla welcomes RSAC Members and attendees. He asks Edward Pritchard (FRA Office of Safety Executive Assistant to Associate Administrator for Safety and Acting Director Office of Safety Assurance and Compliance) to give a Hotel meeting room safety briefing.

Mr. Pritchard identifies the fire and emergency exits. He asks for volunteers with cardiopulmonary resuscitation (CPR) qualification to identify themselves. A large number of RSAC attendees acknowledged having completed this training. A similar query was made for RSAC attendees with cellular telephones, which could be used to call the emergency telephone number, 911. A large number of RSAC attendees acknowledged having cellular telephones.

John M. Samuels (Association of American Railroads (AAR)) asks for the location of the nearest automated external defibrillator (AED) device. Mr. Pritchard responds that he will ask if the hotel has an AED and will report his findings as soon as possible.

Chairperson Gavalla asks FRA Administrator Alan Rutter to address RSAC.

Administrator Rutter thanks RSAC members for being here today. Since his first meeting in February, he has been impressed by the interest RSAC members have shown in the work of this committee.

Mr. Rutter's introductory comments centered on three areas:

(1) Recognizing the efforts and success of this body at the working group level since the last full RSAC meeting;

(2) Reflecting on other developments that warrant the Committee's collective attention; and

(3) Requesting RSAC's help in dealing with safety challenges that confront us today in the field.

First, Mr. Rutter thanks the Accident/Incident Working Group, describing them as the overachievers who have completed a proposed re-work of the reporting rules and the report guide in record time for an RSAC project [12 months]. These were not easy issues; all parties showed flexibility to get a package that will work for safety.

Second, Mr. Rutter thanks the Roadway Maintenance Machines Task Force and the Track Safety Standards Working Group for preparing recommendations to finalize the first safety standards for Roadway Maintenance Machines.

Third, Mr. Rutter thanks the PTC and Event Recorder working groups for their continued efforts. RSAC needs to finalize the Performance Standards for Processor-Based Signal and Train Control Systems as soon as humanly possible. He is glad the group is striving to resolve the final issue so that this committee can put us on a sound footing for implementation of innovative, life saving technology. Performance standards for complex technologies will require viable support systems in the form of risk assessment criteria and toolsets. If we are going to go there, as we need to, we must go there together with a common understanding of the task and confidence that will bring us success.

After several years firmly situated on the "back burner" as a result of other work, the Locomotive Event Recorder Working Group is putting in overtime to finalize a proposed rule. Administrator Rutter's colleagues at the National Transportation Safety Board (NTSB) are awaiting our action to address their recommendations. Administrator Rutter will meet with NTSB Chairman Blakey soon, and appreciates the energy RSAC is bringing to this project.

Finally, Mr. Rutter knows other working groups are awaiting written products from FRA staff for review and further action. He looks forward to acknowledging the efforts of these groups as the coming months unfold.

There are other developments underway in railroad safety. Recently the Department of Transportation (DOT) has been called upon to testify on the transportation of spent nuclear fuel and high-level nuclear waste. DOT has explained what we are doing to make sure that transportation of these commodities is safe, above and beyond our normal oversight process. DOT is completing a study on the issue of dedicated trains – an issue that one is hard pressed to address without ultimately addressing related conditions of transportation. The AAR is working hard to address these issues through its own councils, and the larger railroad safety community should expect to join that discussion within the coming months, as AAR and FRA studies are concluded.

During the coming month, Administrator Rutter will be testifying at least once, and perhaps twice, before committees of the Congress on railroad safety issues. Several of organizations represented on RSAC will undoubtedly participate, as well. FRA looks forward to providing helpful and candid testimony. FRA will affirm its commitment to collaborative processes, such as RSAC, and calling attention to RSAC successes.

If FRA is able to get it through the labyrinthine clearance process, the Agency hopes to offer a Railroad Safety Reauthorization proposal that will, to the extent possible, avoid extended debate concerning proposals that might have no chance of being enacted. In exchange, Administrative Rutter asks that industry parties take advantage of the opportunity to consult with FRA so that the Agency's intent regarding the surviving proposals is well understood and so that the Agency does not miss opportunities for modest advances in the law governing railroad safety programs.

Recently, the Research and Special Programs Administration (RSPA) published a proposed rule on the security of hazardous materials in transportation. RSPA also has an open docket related to loading, unloading and storage that may take on a different appearance in the light of the September 11, 2001 (911) terrorists' attacks. FRA needs to be in a position to provide sound advice to RSPA on these and related proceedings, both because FRA will be responsible for enforcement of any new regulations and because safety and security are inextricably related subject matters. Determining how to structure a conversation on this issue is difficult.

Administrator Rutter says that DOT is in a period of decision making with respect to the future of intercity passenger service and the corporate future of Amtrak. He believes that this will get worked out satisfactorily, because rail passenger service is important to our country's future. Any time of stress, however, can involve safety challenges. Right now, Amtrak is undergoing change internally, including a new Chief Executive Officer, as well as facing challenges from outside. Several key managers have left for retirement or other opportunities, and those who remain find their duties quite challenging. Money is tight. Knowing that this stress exists, it is incumbent on all of us

to be particularly cognizant of safety issues in rail passenger service, to stay in close communication, and to call to Amtrak's attention any developing issues or concerns that come to our attention.

Ordinarily, Mr. Rutter says, one would not raise a matter of this nature in a public forum, but leaders from labor and management are gathered here, and it is appropriate to ask for your help. We all want Amtrak to succeed in providing safe and efficient rail passenger service, and by maintaining open lines of communication we can help Amtrak's hard working employees do just that.

Administrator Rutter asks railroads to increase communication with FRA to address the risk of train accidents. In the past several years, FRA has noted an increase in reportable train accidents. While the Agency has been successful in reducing some of the primary causes of train accidents, for example, human-factor-caused train accidents declined 15 percent last year, in other areas we have failed to make progress.

In particular, track-caused accidents are on the rise, and even outside the yards the number of reportable track-caused derailments is rising. From FRA's vantage, this trend appears to be associated with demands for reinvestment that exceed capital allocations, local inspection and maintenance forces that are stretched to their limits, heavier axle loads, a concentration of traffic on a smaller number of routes, and difficulty in getting track time for inspections and repairs. If this assessment is correct, the trend FRA sees could continue and even accelerate if we don't work together to address these important issues.

FRA will continue to do its part through inspections and enforcement action to press for improved performance. In addition, George Gavalla has initiated a special look at rail integrity programs to determine best practices and encourage their adoption. Furthermore, FRA believes that a sound and effective track inspection program is one of the keys to preventing track caused accidents. The Agency has seen some remarkable successes when railroads, rail labor and FRA work together to improve the quality of track inspections and track maintenance.

On one major railroad, improved track inspections and track maintenance became the focus of a long-term Safety Assurance and Compliance Program (SACP) initiative as well as a focused inspection effort from FRA. After much hard work, candid discussion and insightful analysis, a number of significant steps were taken to improve the track inspection and maintenance programs. As a result, that railroad has enjoyed a 25 percent decline in track-caused accidents in 2001.

By working together, focusing our efforts on the most important safety issues and holding ourselves accountable, we can and we will continue to improve the safety of our Nation's railroads. We cannot do any less.

In addition to scheduling items of business, our staff endeavors to plan topics of general interest relating to railroad safety for each of these meetings. At the last RSAC meeting, members described efforts toward improved railroad security, post-911. Today, there will be briefings on “1-800" emergency notification systems at highway-rail crossings, as well as the issue of freight rolling stock reflectorization.

Administrator asks RSAC members to give FRA feedback. Let FRA know how the Agency can help you advance safety on our Nation’s railroads. What messages does FRA need to get out? Given limited budgets in the public and private sector, what are the most important issues we should be addressing?

Administrator Rutter again thanks RSAC members for their hard work, patience, and commitment to safety.

Chairperson Gavalla asks RSAC members to acknowledge the following attendees: Betty Monro, FRA Deputy Administrator, Donald Itzkoff, former FRA Deputy Administrator, and Bruce Fine, former FRA Associate Administrator for Safety.

Chairperson Gavalla begins a presentation on the “State of Railroad Safety.” Citing two recent train accidents within a week of each other, which were highlighted by media attention, he uses a series of overhead view graphs showing railroad accident statistics between 1997 and 2001. Copies of the overhead view graphs are part of the permanent RSAC Docket. Using the overhead view graph, “Total Accidents/Incidents and Rate,” the overall trend is downward. Total accidents/incidents declined from 16,699 in 1997 to 15,849 in 2001, a drop of 5.1 percent. However, the trend was not smooth. There were increases in accidents and incidents in 1999 and 2000. Nevertheless, Mr. Gavalla notes that the numbers of accidents/incidents and the corresponding accident/incident rates during the past five years have been at historic lows for this statistic. Using the overhead view graph, “Delivering Results Highway-Rail Crossings,” the number of collisions and fatalities at highway-rail grade crossings declined between 1976 and 2001 at the same time that the volume of both railroad and highway traffic increased. Much of this improvement can be attributed to the “Three Es of highway-rail grade crossing safety:” Engineering improvements, Education (i.e., partnerships with Operation Lifesaver), and Enforcement. Mr. Gavalla notes that while the number of highway-rail grade crossing accidents declined to a low in 2001, all the easy improvements have been made. Using the overhead view graph, “Trespasser/Pedestrian Fatalities Injuries and Rate 1997-2001,” Mr. Gavalla notes that after declines in 1999 and 2000, there was an increase in 2001. FRA is concerned because these statistics represent historic “highs.” FRA is undertaking a demographic study to find a target audience for tailoring the Agency’s trespass prevention programs.

Ross Capon (National Association of Railroad Passengers (NARP)) asks if there are statistics for suicides on railroad property?

Chairperson Gavalla responds no.

Robert Finkelstein (FRA Office of Safety Systems Support Division Staff Director) adds that if a public official declares that a suicide has occurred, i.e., a coroner's report, the trespasser fatality is not reported in FRA's accident/incident database.

Using the overhead view graph, "Employee on Duty Fatalities 1997-2001," Chairperson Gavalla laments that despite railroad employee fatalities reaching 22, an historic low number, there is a missing life behind each one of these statistics. He attributes the efforts of the Switching Operations Fatality Analysis (SOFA) Working Group with lowering employee fatalities to eight in 2001, versus 13 the year before. However, the following issues need to be examined: (1) 50 percent of 2001 employee fatalities occurred in the last 4 months of the year, including 3 roadway worker fatalities; (2) So far in 2002, the statistics are not improving; and (3) there have been six people killed in train accidents.

Using the overhead view graph, "Total Train Accidents and Rate 1997-2001," Chairperson Gavalla notes that FRA's safety program is tailored towards this type of accident. He observes that the overall rate and trend for the past five years is upward. FRA has a stringent definition for "train accident." A reportable train accident is one causing more than $6,700 in damage. To illustrate the point that many occurrences that FRA categorizes as a "train accidents" pose little or no safety risk, he noted that 84 of the 101 reportable "accidents" on Amtrak's Northeast corridor over the past 5 years involved damage to catenary and wires. Three others involved vandalism, while "collisions" with cows and deer caused several others. The gross accident numbers do not tell the entire story. The details behind the accidents must also be examined. Mr. Gavalla notes that there has been decline in human-factor-caused accidents.

Using the overhead view graph, "Main Line Accidents/Incidents and Rate 1997-2001," Mr. Gavalla notes that while main line accidents are less than 50 percent of total accidents, the trend between 1997 and 2001 is upward. FRA needs to analyze why.

Using the overhead view graph, "On Yard Track Train Accidents and Rate 1997-2001," Mr. Gavalla observes a decline in 2001, which he hopes is attributable to the efforts and the five lifesavers of the SOFA Working Group.

Using the overhead view graph, "Human Factor Caused Train Accidents 1997-2001," Chairperson Gavalla observes that this type of train accident reached a record low in 1997 and 2001 was near the historic low. He believes there is a need to continue with SOFA activities. He hopes there will be more efficiency testing. He is convinced that when FRA focuses both partnership efforts and enforcement activity on a single objective, the Agency can drive down accidents.

Using the overhead view graph, "Track-Caused Train Accidents and Rate 1997-2001," Mr. Gavalla observes an upward trend in this type of accident. FRA is examining a "best practices" approach for reversing this trend.

Using the overhead view graph, “Main and Yard Track-Caused Train Accidents Rate 1997-2001,” Mr. Gavalla explains that FRA is looking at a “best practices” approach to reversing the upward trend in the Yard Track-Caused Accident category.

Using the overhead view graph, “Main Line Track-Caused Train Accidents by (Railroad) Class 1997-2001,” Chairperson Gavalla observes that broken rails and broken joint bars are the greatest concern. But some railroads do a better job of detecting these defects than others.

FRA will re-examine its own track inspection program, including the use of the Agency’s T-2000 and T-16 track inspection vehicles to bring about improvements to track safety.

Finally, using the overhead view graph, “Equipment-Caused Train Accidents 1997-2001,” Mr. Gavalla notes that there is a small increase in the number of this type of accident. FRA is looking into ways it can help reverse this type of accident trend.

Chairperson Gavalla asks if there are any questions on his presentation?

Frank McKenna (Tourist Railway Association) asks if FRA has any way of identifying trespassers versus pedestrians at highway-rail grade crossings in its accident/incident database?

Mr. Finkelstein responds that a person struck in a grade crossing is a grade crossing collision. A person struck two feet away from a grade crossing would be a trespasser.

Chairperson Gavalla asks how commuters, who illegally cross tracks after disembarking a rail car would be treated?

Mr. Finkelstein responds that casualties to commuters illegally crossing tracks are reported as casualties to trespassers.

Ken Bauer (American Public Transportation Association (APTA)) asks if FRA’s accident/incident statistics can be broken-out into different categories.

Chairperson Gavalla responds that accident/incident data is available at FRA’s Internet web site in a variety of user-selected formats.

William Thompson (United Transportation Union (UTU)) asks what are the causes of “mechanical” accidents?

Ronald Newman (FRA Office of Safety Motive Power and Equipment Division Staff Director) responds that there can be a variety of failures ranging from broken wheels and bearings to brakes.

John M. Samuels (AAR) makes a query about traffic control devices at highway-rail grade crossings. He asks if anything is being done about advance signage?

Administrator Rutter responds that he and Betty Monro are looking at problems at all passive crossings of which advance signage is one issue. He will have more to report on this topic at a later date.

Joseph L. Mattingly (Brotherhood of Railroad signalmen (BRS)) asks if there is any Section 130 (Intermodal Surface Transportation Efficiency Act) funding available for highway-rail grade crossing safety?

Chairperson Gavalla responds there is $155 million per year. FRA will emphasize the need to continue this program at the Agency's Reauthorization Hearings. But, this money comes from the Highway Trust Fund and he cautions that there are many competing uses for these funds.

Dennis Mogan (AAR) returns to the issue of reporting suicides on railroad property. He asks what happens if a railroad reports a fatality that is later determined to be a suicide by a coroner's inquest?

Robert Finkelstein (FRA) answers that it is easy to remove "suicides," i.e., a reclassified fatality, from FRA's database.

Ross Capon (NARP) raises a new concern. Every time a suicide occurs, a railroad is shut down for 3 or 4 hours while engineers undergo drug and alcohol testing and local police investigate the accident. An suicide incident involving an Amtrak Train occurred recently just outside of Washington, DC. Passengers were stranded. Mr. Capon is interested in any voluntary assistance that could be provided to local police forces to help shorten the time passenger trains are held captive following a suicide.

Chairperson Gavalla agreed to look into this request.

George McDonald (Transport Workers Union of America (TWU)) asks what FRA is doing to combat terrorism, in light of the many steps being undertaken by DOT?

Chairperson Gavalla responds that prior to 911, railroads were required to have Emergency Response Plans in place. The Federal Transit Administration and FRA are funding Safety Risk Assessments of the largest commuter railroads. Also, FRA has participated in a number of seminars with FTA on emergence response. Finally, FRA is funding a risk assessment of Amtrak.

Faye Ackermans (AAR) explains that in Canada, there are specific procedures to follow after a suicide occurs.

Mr. Capon asks if the Canadian system can be adopted in the United States?

Warren Flatau (FRA Office of Safety/Public Affairs) interjects that there are many differences in the social and political pressures surrounding suicides. Each law enforcement agency responds to these pressures differently. He believes there is no easy solution to the delay-of-train problem.

Charles Dettmann (AAR) wishes to return to earlier comments by Administrator Rutter. The demand for increased investment in rail infrastructure as the solution to track-caused accidents is a concern. As can been seen from the efforts of the SOFA Working Group, he observes, it took these experts a great deal of time to analyze data and arrive at a solution to switching operations fatalities. He suggests that a new RSAC Working Group could be formed to look at issues surrounding track-caused accidents. He believes that a focus group could look at data, regulations, and non-regulatory issues that could result in a solution and improvement. The Working Group could examine whether train accident cause is more related to track issues, mechanical issues, or human factor issues. He believes that stake holders should help address this issue.

Rick Inclima (BMWE) asks if there are any efforts underway to reconvene the 1996 RSAC Track Working Group to consider rules on line-of-sight at highway-rail grade crossings. The Working Group was able to reach agreement on many things including vegetation control and signal maintenance. However, the rules went forward without consensus on new line-of-sight regulations at highway-rail grade crossings.

William Browder (AAR) responds that a DOT Working Group has studied initiatives and made recommendations. Highway Engineers have been directed to examine highway-rail grade crossings for sight distances and brush. Specifics are being recommended for highway-rail grade crossings.

Grady Cothen (FRA Deputy Associate Administrator for Safety Standards and Program Development) adds that line-of-sight and brush control issues raised, but unresolved by the Track Working Group were transmitted to DOT for the consideration of the Departmental Working Group.

Robert Harvey (BLE) revisits Ross Capon's request for assistance to allow passenger trains to move quickly following a suicide. He explains that railroads have a requirement to perform drug and alcohol tests on train crew members following an accident, even when it involves a suspected suicide. Train crews must be tested before the train can proceed. Because this type of accident can occur in remote locations at any time of the day or night, the logistics to getting the drug and alcohol tests performed, or even sending a replacement crew contributes to the delays.

Chairperson Gavalla reminds RSAC that Lamar Allen is FRA's contact for all issues concerning drug and alcohol testing.

James Stem (UTU) adds to Mr. Dettmann's discussion on train accident cause investigation. He observes that the SOFA Working Group was small and wise enough

to work together effectively. He shares the belief that a SOFA-like process could produce a framework to examine causes and make recommendations for reducing train accidents.

With no additional questions or comments, Chairperson Gavalla announces the morning break.

M O R N I N G B R E A K 10:45 A.M. - 11:15 A.M.

Chairperson Gavalla reconvenes the meeting.

Mr. Pritchard (FRA) announces in response to Dr. Samuels' earlier question about the location of the nearest AED device that there is none in the Wyndham Hotel location of today's meeting. Therefore, the closest known location of an AED device is FRA's offices at 1120 Vermont Avenue.

Chairperson Gavalla asks Mr. Pritchard for an update on the Locomotive Event Recorder Notice of Proposed Rulemaking (NPRM).

Mr. Pritchard (FRA) explains that the Working Group is meeting the remainder of this week in Washington, DC to finalize language in the NPRM, after which the full RSAC will be asked to vote on the draft rules by mail ballot. Materials related to RSAC Task No. 97-3, Revision of Event Recorder Requirements, are part of the materials inserted at Tab 12 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

With no questions of Mr. Pritchard, Chairperson Gavalla asks Mr. Cothen and Cindy Walters (FRA Office of Chief Counsel) for a presentation on Positive Train Control (PTC) rules.

Using overhead view graphs, Ms. Walters explains that the PTC Working Group began work in late 1997. Overhead view graphs used during RSAC Meetings are part of the permanent RSAC Docket and are not included as attachments to, or excerpted in detail in the RSAC Minutes. On August 10, 2001, FRA published an NPRM for Performance Standards for Positive Train Control (PTC) Systems (66 *Federal Register* (FR) 42352). The comment period was extended until November 8, 2001. Twenty-eight comments have been received. Each was significant.

RSAC tasks associated with PTC are No. 97-4, Positive Train Control (PTC) Systems Technologies, Definitions, and Capabilities, Task No. 97-5, Positive Train Control Systems Implementation Issues, and Task No. 97-6, PTC Standards. Materials related to these topics are inserted at Tab 15 of Notebooks given to each RSAC member.

These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Under the overhead view graph, “Responsibility,” Ms. Walters explains that for PTC Systems, Railroads will be responsible for systems as deployed. However, suppliers implicitly will be responsible for the representations of their systems.

Continuing the use of overhead view graphs, Ms. Walters outlines modifications to the Code of Federal Regulations (CFR) that the proposed PTC NPRM would modify. Under 49 CFR Part 209, Railroad Safety Enforcement Procedures, Subpart A-General, § 209.11, Request for Confidential Treatment, FRA will protect certain information submitted in required filings that railroads and suppliers may want protected. However, if challenged (some feel that all safety-related information should be public) courts may make the final decision on release of confidential information.

Under 49 CFR Part 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances, a new entry is added, § 236.18, to address Software Management Control Plans. The Working Group expressed concern that an allotted 24 months may not be sufficient to devise a software management control program for products already being designed. The rule text was revised to allow total period of 30 months for full implementation. The rule text has also been revised so that software management control requires a description of the process for ensuring proper configuration of software management control plans.

Under 49 CFR Part 236, a new entry is added, § 236.903, to define the terms, “Train Control” “ “High Degree of Confidence,” and “Mean Time To Hazardous Event.” For the term, “Validation,” the Working Group elected to use the Institute of Electrical and Electronics Engineers (IEEE) definition.

Also under 49 CFR Part 236, new entries are added, § 236.905 Railroad Safety Program Plan, § Section 236.907, Product Safety Plan, § Section 236.909 Minimum Performance Standards, § Section 236.911 Exclusions, § Section 236.913 Notification to FRA of Private Safety Plans, and § Sections 236.921 – 236.929 Training Provisions.

Ms. Walters asks Grady Cothen to continue the presentation.

Mr. Cothen (FRA) explains that there is one important unresolved issue: determining the Minimum Performance Standard, a new 49 CFR Section 236.909. The objective is to have any new signal/train control system to be at least as safe as an old system, i.e., no degradation in safety. The NPRM would require “adjustments” to the base case where changes in infrastructure and operations are planned. Performance that is better than existing rules require would be captured where existing infrastructure and operations will not change (and no adjustment is required). This is not necessarily the “best” practice

approach, but it could be. One commenter noted that actual capabilities of the best current technology often exceed existing minimum standards; therefore, having a new system conform with minimum standards may reduce safety. However, the PTC Working Group did not concur with this assessment.

In presenting a "Base Case" discussion, Mr. Cothen outlined two issues: safety and technical practicability. For illustrative purposes, Mr. Cothen described a "Safety Concern Example," and "Technical Practicality Example." The values in the examples are purely arbitrary.

Mr. Cothen concludes his presentation by explaining that there is a need to achieve consensus to move forward with a performance-based standard. Resolving risk assessment issues is essential to having confidence in the appropriateness of the approach. FRA is working with the all of the parties to resolve this issue.

Mr. Cothen hopes to be able to conclude the "base case" issue within the next month, and receive PTC Working Group approval. He will provide a matrix with proposed issue resolution with the NPRM to the full RSAC for approval by mail ballot.

Mr. Dettmann (AAR) would like to comment on the "Safety Concern Example." What is not present is the concept of "slower" operations. Therefore, the rule itself could prevent an improvement in the level of safety. He does not think that the proposed rule should dictate a less risk adverse solution, i.e., operating trains slowly, which is a business decision. In addition, he believes the evidence shows that most train dispatchers have gotten into "trouble" when there were fewer, not more trains on the system. He is concerned about an unsubstantiated "risk statement."

Chairperson Gavalla concludes by saying there has been a tremendous amount of effort in this rule making. It is a very important priority of Administrator Rutter.

Chairperson Gavalla announces the lunch break.

L U N C H B R E A K 12:05 P.M. - 1:10 P.M.

Chairperson Gavalla reconvenes the meeting. He asks Jeffrey Horn (FRA Office of Safety) for a presentation on for a presentation on Locomotive Cab Working Conditions. Task Statements, Working Group membership composition, and a brief synopsis of Working Group activities related to RSAC Task No. 97-2, Locomotive Cab Working Conditions, are part of the materials inserted at TAB 10 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. Under "Sanitary Standards," a Final Rule has been affirmed and will be published in 4 to 6 weeks. Under "Noise Standards," a re-draft of the Notice of Proposed Rulemaking (NPRM) is underway. FRA will propose solutions

to items that have not reached consensus.

Mr. Horn explains that the Final Rule for Locomotive Sanitation Facilities was issued on April 4, 2002. It will become effective on June 3, 2002. A draft NPRM on locomotive cab noise standards will be made available at least 30 days prior to the next working group meeting, now scheduled for July 24-25, 2002. Mr. Horn announces that Christine Beyer, the attorney assigned to the Working Group has left FRA for DOT's Transportation Security Administration. Her replacement is Christina McDonald (FRA Office of Chief Counsel).

With no questions of Mr. Horn, Chairperson Gavalla asks Robert Finkelstein (FRA) for a presentation on Task No. 97-7, Definition of Reportable "Train Accident." The materials related to this task are inserted at TAB 14 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Using overhead view graphs, Mr. Finkelstein explains the objectives of the Working Group activities: To conform FRA rules to Occupational Safety and Health Administration (OSHA) rules; to update and improve FRA accident reporting codes; and clarify commuter/Amtrak reporting requirements. The overhead view graphs are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Mr. Finkelstein explains some of the OSHA-conforming changes to definitions. Under First Aid Treatment, FRA now includes the use of an eye patch, butterfly bandage, or Steri-Strip. Medical Treatment now includes any medical care beyond "first aid," but does not include counseling. Under "Covered Data-Days Lost or Restricted," if a health professional recommends that the employee take one or more days away from work and the employee chooses not to take any time away from work, the case is not otherwise reportable to FRA. Also under the proposed system, a case that is reported to FRA, but then transferred to the Department of Labor (OSHA), it will not become part of FRA's statistical publications. However, it can still be seen in FRA's database on the Agency's Internet Web Site. Under "OTC Drug at Prescription Strength," if a health professional recommends that an employee take an over-the-counter (OTC) medication at a prescription strength dosage, the case is reportable to FRA for transfer to OSHA. However, the case will not become part of FRA's statistical publications. However, it can still be seen in FRA's database on the Agency's Internet Web Site. Mr. Finkelstein adds that there have been revised "injury codes." What was once "eye area," has now been expanded to "cheek," and "jaw." FRA believes that the revised "injury codes" will reduce the need for narratives. New Circumstance Codes have been added to all categories. These include: (1) physical act, (2) location, (3) event, (4) tools, machinery, appliances, and structures, and (5) probable cause. New Cause Codes have been added to describe different types of "broken rail," and for technical changes in the signal area to conform with the processor-based PTC NPRM. Changes have been added for Remote Control Locomotive (RCL)-related accidents and injuries. There are changes to the RCL train accident form and RCL highway-rail collision form. In addition new Circumstance

Codes and Job Codes have been added for RCL accident forms. Changes have been made to Switching Operations accident reporting, based on SOFA recommendations. Included are new Circumstance Codes. Under Commuter Railroads, the accident reporting has been condensed and simplified. Provisions have been made for the telephonic notification of accidents and fatalities, reporting of occupational illnesses, coding of job titles that do not conform to the accident report, and the collection of geospatial data. Mr. Finkelstein reports that the Working Group has reached consensus on major issues. Work is nearly complete on a draft NPRM. Mr. Finkelstein asks that RSAC approve a request to review and respond to the draft NPRM by mail ballot.

Chairperson Gavalla adds that if someone were to look in our databases, they could determine lost-time injuries.

Hank Lewin (TCIU/BRC) asks if FRA could give an example of when a doctor would recommend taking days off, but the patient would not take these days off?

Mr. Finkelstein responds that if a person were to fall down stairs and receive bruises, upon visiting a physician, the physician recommends taking 2 days off. However, the next day, the patient feels fine and returns to work after only one day off.

Mr. Lewin asks for confirmation that if a person visits a physician, does that make it a reportable event?

Mr. Finkelstein responds no.

Because the Accident/Incident Working Group is nearing completion of its work, Chairperson Gavalla asks for RSAC to approve a mail ballot for the draft NPRM on Accident/Incident Reporting.

> MR. DETTMANN (AAR) MOVES THAT WHEN THE ACCIDENT/INCIDENT WORKING GROUP COMPLETES ITS WORK ON CONFORMING FRA RULES TO OSHA RULES THAT THE DRAFT RULE CHANGES BE CIRCULATED TO RSAC MEMBERS BY MAIL BALLOT.
>
> MR. INCLIMA (BMWE) SECONDS THE MOTION.
>
> BY UNANIMOUS VOICE VOTE, RSAC APPROVES THE MOTION TO CIRCULATE DRAFT RULE CHANGES TO CONFORM FRA ACCIDENT/INCIDENT REPORTING REQUIREMENTS WITH OSHA REPORTING REQUIREMENTS.

Chairperson Gavalla asks Al MacDowell (FRA Office of Safety Track Division Staff

Director) for a presentation on Roadway Maintenance Machines. On January 10, 2001, FRA published an NPRM on Roadway Maintenance Machines (66 FR 8372). Subsequently, FRA asked the Track Working Group to reconvene to evaluate the comments it received. Task Statements, Working Group membership composition, and a brief synopsis of Working Group activities related to RSAC Task No. 96-2, Track Safety Standards, are part of the materials inserted at TAB 2 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Using a series of overhead view graphs, Mr. MacDowell describes the proposed rules that will cover roadway maintenance machines (RRMs). Overhead view graphs are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. Based on the Working Group recommendations, the NPRM modifies 49 CFR § 214 to add new definitions for on-track RMMs, hi-rail vehicles, and excluded or exempt RRMs (49 CFR 214.7). Under 49 CFR 214.501, the purpose of the NPRM is (1) to prevent accidents and casualties, (2) prescribe minimum safety standards for on-track RMMs and hi-rail vehicles, and (3) differentiate between FRA and OSHA protection of employees. Under 49 CFR 214.507, required safety equipment for both new on-track RMMs and existing RMMs is described. These include seats for operators where required, turntables that can be mechanically secured, windshields made with safety glass, and power windshield wipers on new on-track RMMS, and primary braking systems, first aid kits, fire extinguishers, and appropriate handholds and handrails for all RMMs, new and existing. Under 49 CRF § 509, visual illumination and reflective devices for new on-track RMMs are required. These include headlights, brake lights, rotating beacons, and mirrors. Under 49 CFR 214.511, audible warning devices are required for all new on-track RMMs including horns and change-of-direction alarms. The NPRM also provides for retrofitting existing RMMs. A 2-year schedule has been adopted, except for RMMs manufactured after 1990 in which 18 months is allowed for retrofit, after the effective date of the rule. Other provisions of the rule cover towing of RMMs, overhead covers, inspection for compliance and repair, failure of primary braking, and schedule of repairs.

Hank Lewin (TCIU/BRC) asks who can request “Overhead Covers” as described in 49 CFR § 214.515?

Mr. MacDowell responds “the operator.”

With no further questions, Chairperson Gavalla asks for a motion for the full RSAC to accept the Track Working Group Report recommendations to the NPRM.

> RICK INCLIMA (BMWE) MOVES THAT THE TRACK WORKING GROUP REPORT RECOMMENDATIONS FOR THE ROADWAY MAINTENANCE MACHINES NPRM BE APPROVED.
>
> JAMES STEM (UTU) SECONDS THE MOTION.

BY UNANIMOUS VOICE VOTE, RSAC APPROVES THE MOTION TO APPROVE TRACK WORKING GROUP RECOMMENDATIONS TO THE NPRM ON ROADWAY MAINTENANCE MACHINES.

Chairperson Gavalla announces the Afternoon Break.

A F T E R N O O N B R E A K (1:55 P.M. - 2:18 P.M.)

Chairperson Gavalla reconvenes the meeting. He announces that Dr. Samuels (AAR) had asked when DOT will address the issue of advance signage at highway-rail grade crossings. He responds that a DOT report on this topic is undergoing review and should be available shortly.

Chairperson Gavalla asks Tom Woll (FRA Office of Safety) for a presentation on the highway-rail grade crossing "toll-free" emergency notification system (ENS).

Using a series of overhead view graphs, Mr. Woll gives a status report on the deployment of this system. Overhead view graphs are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. FRA's project goals for the ENS are: (1) improve highway-rail safety (with the potential to prevent collisions and fatalities), (2) provide the means to notify public safety responders and railroads of malfunctions, problems and emergency situations, (3) meet the requirements of the *1994 Rail-Highway Crossing Safety Action Plan* and *1994 Swift Rail Development Act*, and (4) generate reports for safety analysis of malfunctions and problems. Under "Components of a Toll-Free ENS,:" signs are erected at crossings with a toll-free telephone number. When the toll-free number is dialed, a connection is made to an ENS Center, which is staffed 24 hours a day. Computer hardware and software at the ENS Center enable operators to identify crossing locations, log calls, and report problems. Finally, the ENS Center notifies a railroad, or local police authority via telephone or facsimile. Under "Background," Mr. Woll explains that in 1983, the State of Texas initiated the ENS for signalized public crossings at 4,700 locations. The service was maintained 24 hours/day by the Texas State Police Emergency Management Center. By 1989, Texas received an average of 14 calls per day, 5,100 per year.

In 1994, FRA's *Rail-Highway Crossing Safety Action Plan* required an automated trouble report system. Also in 1994, the Swift Rail Development Act required Emergency Notification. This law requires a two-State Pilot Program, but no funding was provided by Congress. However, the Federal Highway Administration authorized funding for signs, under Section 130 of the Intermodal Surface Transportation Efficiency Act. In 1996, Congress authorized funding for the program, the National Transportation Safety Board (NTSB) issued a recommendation that railroads post "1-800" ENS signs, and Class I railroads began to install signs. In 1998, FRA awarded a contract to develop a "1-800" Toll-Free ENS. The State of Texas was chosen to test the design of the ENS.

FRA delivered final software to Texas in 2000 and is continuing with partnerships to test the software with SEDA-COG in Pennsylvania, and the Paducah and Louisville Railway Company. In a status report of Class I railroads (based on 1999 year end data), ENS signs have been installed at approximately 75 percent of all signalized public at grade crossings, 57 percent of all public at grade crossings, and 48 percent of all public and private at grade crossings. In a status report of Class II and Shortline railroads having crossings without ENS signs, 43 percent were public at-grade crossings, and 52 percent of all at-grade crossings did not have ENS signs. Mr. Woll explains that FRA can help Class II railroads by offering "free" ENS software. However, there is a need to establish regional centers for Shortline railroads that do not normally operate 24 hours a day, or have the financial resources to establish ENS Centers. As part of the two-state pilot ENS program, required under the Swift Rail Development Act, Texas and Pennsylvania have been chosen. FRA is requesting that all Class II and Shortline railroads in the State of Pennsylvania join the demonstration program. In Texas, there is now an average of 100 calls per day, 2,926 calls per month. The Burlington Northern Santa Fe received 250 daily calls, 7,538 monthly calls, and 90,454 annual calls from its nearly 35,000 public and private crossings.

In conclusion, Mr. Woll explains that Class I railroads have installed ENS signs. There is a need to expand the ENS program to shortline railroads. FRA has developed ENS software and is currently adding a mapping function to the software package. The SEDA-COG partnership in Pennsylvania is serving as a model for shortline railroads. Finally, for more information, visit the following FRA Internet Web Site: WWW.FRA.DOT.GOV/SAFETY/ENS/INDEX.HTM, or call Tom Woll at (202) 493-6290.

Mr. Woll asks if there are any questions?

Dennis Mogan (AAR) asks if there are more than one identification number when an at-grade crossing has multiple tracks?

Mr. Woll responds that if there are no active warning devices, there is one identification number; if there are multiple tracks with warning lights, there will be more than one identification number.

With no further questions, Chairperson Gavalla asks Grady Cothen (FRA) to give a synopsis of "other work group activities," and "non-RSAC rulemakings."

Mr. Cothen responds that under RSAC Task No. 97-1, Locomotive Crashworthiness, work has been slow. However, tentative agreement was reached on January 18, 2002, for elements of a draft NPRM. FRA expects quick acceptance once the Agency is able to return a revised draft NPRM to the Working Group.

Under RSAC Task No. 2000-1, Blue Signal Protection, all issues have been discussed, but several have not been resolved. The Working Group is waiting for FRA to offer back an NPRM with new approach to break deadlocks and to address major problems with

existing interpretations.

Tim DePaepe (BRS) asks if FRA is preparing a revised rule for Blue Signal Protection, or will it call the Working Group together? Mr. Cothen responds "yes" to both questions. FRA is preparing a draft NPRM and will ask the Working Group to convene and review the draft NPRM.

Mr. Cothen continues. The RSAC has been provided with copies of the final rule amendments responsive to issues raised in petitions for reconsideration under the Freight Power Brake rule and with a termination notice for the proposed rule on stenciled "maintenance-of-way" cars under the Freight Car Safety Standards. Reconsideration of structural and other issues under the Passenger Equipment Safety Standards is also complete, and fire safety amendments will be forthcoming shortly (closing out Phase I of that rulemaking). The final rule on Safety Integration Plans has also been provided to the RSAC.

The public comment periods are closed for FRA's interim final rule imposing Locational Requirements for Dispatching and on the proposed amendments to Part 219 that would require random testing of foreign-based crews. FRA is reviewing those comments.

Rick Inclima (BMWE) asks why the freight car standards proceeding was terminated.

Mr. Cothen responds that it was one of the oldest items on the regulatory agenda. After looking at the state of the record, everything was out of date. The RSAC had declined to consider the issue, and other priorities of interest to members took precedence over that rulemaking. The existing record may not reflect current realities in the field. Therefore, when this topic is again examined, a new record will be developed.

With no further questions of Mr. Cothen, Chairperson Gavalla asks Mary Plache (FRA Office of Safety) for a status report on freight rolling stock reflectorization.

Using a series of overhead view graphs, Ms. Plache explains that grade crossing collisions are one of the leading causes of rail-related casualties, accounting for roughly half of all fatalities in rail operations. The prevention of these collisions is one of FRA's highest priorities. Overhead view graphs are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. Under "Background," Ms. Plache describes a 1981 FRA study, which examined the potential use of reflectors on rail cars to reduce accidents at highway-rail grade crossings. While the use of reflectorization on rail car rolling stock had merit in 1981, there were deficiencies in available reflective materials at the time. Subsequently, improvements in the brightness, durability, and adhesive properties of reflective material have been achieved. In 1999, the Volpe National Transportation Systems Center concluded in a report that enhancing the visibility of freight train cars with reflective material could prevent collisions involving highway vehicles and that the new, low cost retro-reflective material could withstand harsh operating environments. On July 28, 1999, FRA held a reflectorization workshop

in Washington, DC. On January 14, 2000, FRA established a Rail Car Conspicuity Docket, FRA-1999-6689, to collect comments and information on rail car reflectorization. Included is a benefit-cost analysis. To perform the benefit-cost analysis, FRA made certain assumptions. And, the benefit-cost analysis was influenced by consideration that one-third of the freight car fleet and a substantial portion of the locomotive fleet are already equipped with reflective materials. The discounted cost basis (ten year costs) is estimated to be $48-50 million. The discounted benefits (ten year basis) are estimated to be $78-106 million. FRA is reviewing differing benefit-cost estimates. FRA is preparing a proposed rule that is contingent upon the successful resolution of benefit and cost issues.

With no further questions of Ms. Plache, Chairperson Gavalla asks for approval of the Minutes from the 18th RSAC Meeting. The Minutes were sent by Federal Express Mail delivery to each RSAC Member in advance of today's meeting. Several members requested minor changes and these have been incorporated into the record.

> JAMES STEM (UTU) MOVES THAT THE MINUTES OF THE 18TH RSAC MEETING BE APPROVED.
>
> RICK INCLIMA (BMWE) SECONDS THE MOTION.
>
> BY UNANIMOUS VOICE VOTE, THE MINUTES WITH REQUESTED CHANGES OF THE 18TH RSAC MEETING WERE APPROVED.

Chairperson Gavalla recognizes FRA Office of Safety personnel who have helped with the planning of today's meeting. They are Lydia Leeds, Patricia Butera, and Robert Siegfried. He adds that today is the last RSAC Meeting for John F. Sneed, who is retiring. He has been the Secretary of RSAC since its inception on April 1, 1996.

Chairperson Gavalla asks for a tentative date for the next meeting of the full RSAC. After a brief discussion, he informs RSAC that FRA will look for a meeting facility in Washington, DC for either the week of September 8th, or the week of September 16th.

With no further business, Chairperson Gavalla adjourns the 19th RSAC Meeting at 3:15 p.m.

M E E T I N G A D J O U R N E D 3:15 P.M.

These minutes are not a verbatim transcript of the proceedings. Also, overhead view graphs and handout materials distributed during presentations by RSAC Working Group Members, FRA employees, and consultants, generally become part of the official record of these proceedings and are not excerpted in detail in the minutes.

Respectively submitted by John F. Sneed, Secretary.